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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,933	03/18/2004	Michael S. Mabce	IP-026463	8224

1726 7590 12/13/2006

INTERNATIONAL PAPER COMPANY
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EXAMINER

CARTAGENA, MELVIN A

ART UNIT PAPER NUMBER

3754

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/804,933	Applicant(s) MABEE ET AL.	
	Examiner Melvin A. Cartagena	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/8/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claim 7 is objected to because of the following informalities: Claim 7 recites the limitation "pull ring means affixed to said tear away flap" in lines 1 and 2. There is insufficient antecedent basis for the tear away flap in the claim. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 8-14 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,499,736 to Kohl.

Kohl shows a fitment for a container having a wall 24 associated with the top end 14 of a container as seen in Figs. 1, 4 and 5, means 38 defining an ellipsoidal cross-sectional opening through the wall 24 for exiting product, a circumferential flange 30, a wall 52 circumscribing the opening 38, a cap member 22 integrally formed in a hinged relationship with the top wall, the cap includes a first and second annular projections 72 and 74 respectively extending from the cap surface 70 and defining a space 76, see column 5, lines 55-57.

4. Claims 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by US 5,632,440 to Tragardh et al.

Tragardh shows a container with a closure having an ellipsoidal shaped dispensing opening as seen in Figs. 4, 8 and 9, performing the steps of establishing a dispensing opening

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communicating the interior with the exterior of the container and pouring from the container through the opening with a first cross-sectional geometry greater than a second cross-sectional geometry above the first cross sectional-geometry, see column 6, lines 9-21.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,499,736 to Kohl in view of US 3,434,620 to Laurizio.

Kohl shows all claimed features as discussed above except for a tear away membrane with an attached pull ring. Laurizio shows a closure as seen in Figs. 1, 2 and 5, having a tear away membrane 10 with an attached pull ring 13. It would have been obvious to a person with ordinary skill in the art at the time the invention was made to modify the device of Kohl to include a tear away membrane with a pull ring to reduce the possibility of product leakage during transport, detect unauthorized tampering and facilitate pulling the membrane by inserting a finger through a pull ring as taught by Laurizio.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mojonier shows a container. Heeking shows a spout-type container closure. Robichaud shows a package closure. Mock shows a closure unit for container.

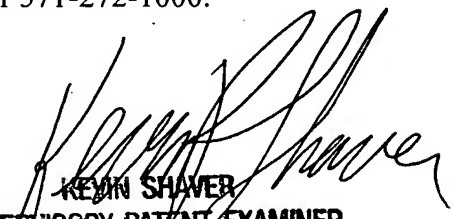
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin A. Cartagena whose telephone number is (571) 272-4924. The examiner can normally be reached on T-F (7:30AM to 6:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin P. Shaver can be reached on (571) 272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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